

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1597

Introduced by Assembly Member Laird

February 22, 2005

An act to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of the Health and Safety Code, relating to drug paraphernalia.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as amended, Laird. Drug paraphernalia.

Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

This bill would authorize a public entity that receives General Fund money from the State Department of Health Services for HIV prevention and education to use that money to support clean needle

and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require the use of that money to be based upon local epidemiological statistics as to the incidence of HIV transmission through injection drug use.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The continuing spread of the acquired immunodeficiency
4 syndrome (AIDS) epidemic and the spread of blood-borne
5 hepatitis pose two of the gravest public health threats in
6 California.

7 (b) Injection drug users are the second largest group at risk of
8 becoming infected with the human immunodeficiency virus
9 (HIV) and developing AIDS, and they have been the primary
10 source of heterosexual, female, and perinatal transmission in
11 California, the United States, and Europe.

12 (c) According to the Office of AIDS *within the State*
13 *Department of Health Services*, injection drug use continues to
14 be one of the most prevalent risk factors for new HIV and AIDS
15 cases in California. Injection drug users continue to be at high
16 risk of HIV/AIDS and hepatitis infection in California.
17 According to an annual report issued by the Office of AIDS
18 ~~within the State Department of Health Services~~, sharing of
19 contaminated syringes and other injection equipment is linked to
20 20 percent of all reported AIDS cases in the state through 2003.
21 State data suggests that over 1,500 new syringe-sharing *HIV*
22 infections occur annually. *The U.S. Centers for Disease Control*
23 *and Prevention (CDC) estimates that it costs between \$154,000*
24 *and \$196,000 to provide a lifetime of care for a person infected*
25 *with HIV.*

26 (d) Injection drug users are also highly likely to become
27 infected with hepatitis as a result of hypodermic needle and
28 syringe sharing practices.

29 (e) The Legislature has responded to the spread of HIV and
30 hepatitis among injection drug users by adopting Assembly Bill

136 (Chapter 762, Statutes of 1999), which permits localities to determine whether or not to operate clean needle and syringe exchange programs. As a result of that legislation, many localities are now operating these programs.

(f) These programs have been shown to significantly reduce the transmission of HIV and hepatitis among injection drug users, their sexual partners, and children. *Moreover, these programs have been effective in moving individuals into substance abuse treatment programs and in reducing the number of used hypodermic needles and syringes disposed of in public places, which pose a threat to public health and safety.*

(g) The United States government prohibits the use of federal funds to support the purchase of sterile hypodermic needles and syringes by clean needle and syringe exchange programs, and the state has not heretofore permitted the use of its funds for the purchase of sterile hypodermic needles and syringes, *although current state policy, as evidenced by contractual agreements between the State Department of Health Services and local agencies, allows state HIV prevention and education funds to be used for costs associated with authorized clean needle and syringe exchange programs, except for the purchase of sterile hypodermic needles and syringes.*

(h) The ability of clean needle and syringe exchange programs to purchase an adequate supply of sterile hypodermic needles and syringes is essential to California's ability to further reduce the transmission of HIV and hepatitis and to relieve the public cost for the care and treatment of HIV disease and hepatitis.

SEC. 2. Chapter 1.5 (commencing with Section 120780) is added to Part 4 of Division 105 of the Health and Safety Code, to read:

CHAPTER 1.5. STATE HIV PREVENTION AND EDUCATION
FUNDS

120780. A public entity that receives General Fund money from the State Department of Health Services for HIV prevention and education may use that money to support clean needle and syringe exchange projects authorized by the public entity pursuant to ~~subdivision (a) of Section 11364.7~~ *existing law*. The money may be used for, but is not limited to, the purchase of

- 1 sterile hypodermic needles and syringes. The use of that money
- 2 shall be based upon local epidemiological statistics as to the
- 3 incidence of HIV transmission through injection drug use.

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